

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LEVERT HAYES, Jr.,

Petitioner,

vs.

ROBERT WONG, Warden,

Respondents.

Civil No. 09cv1354 L (JMA)

**ORDER DISMISSING CASE AS
DUPLICATIVE**

Petitioner, Levert Hays, Jr., a state prisoner proceeding pro se, has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254.

Petitioner raises a single claim in the present Petition challenging the use of juvenile priors to enhance his sentence in violation of the Sixth Amendment and Apprendi v. New Jersey, 530 U.S. 466 (2000). (Pet. at 6; Attachment 22(A) at 1.)

The Court may dismiss a duplicative petition as frivolous if it “merely repeats pending or previously litigated claims.” Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (citations omitted). Petitioner currently has another case pending in this Court, case number 08cv1461 H (BLM) in which he challenges the use of his juvenile priors as sentencing enhancements in violation of Apprendi. (See Pet. in case number 08cv1461 H (BLM) at 8; Attachment One at 5.)

///

1 Based on the foregoing, the Court **DISMISSES** this case because the Petition in this case
2 is duplicative of that filed in case number 08cv1461 H (BLM). The Clerk shall close the file.

3 **IT IS SO ORDERED.**

4 **DATED: July 30, 2009**

5 
6 **M. James Lorenz**
7 **United States District Court Judge**
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28